

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In re:)	
)	
CARL PINKERTON)	
)	
)	Case No. 19-12330-KHK
)	Chapter 13
)	
Debtor.)	

**LAKESIDE HOMEOWNERS
ASSOCIATION, INC.**

Movant,

v.

CARL PINKERTON

Respondent.

**MOTION TO CONFIRM NO STAY IN EFFECT
PURSUANT TO 11 U.S.C. § 362 (c)(4)(A)(ii)**

Comes now Lakeside Homeowners Association, Inc. (the “Association”), by counsel, and for its Motion to Confirm No Stay in Effect Pursuant to 11 U.S.C. § 362 (c)(4)(A)(ii) states as follows:

1. The Association is a secured creditor of Debtor secured by homeowners association assessment liens and judgment liens recorded against the real estate commonly known as 14088 Madrigal Drive, Woodbridge, Virginia 22913 (the “Property”), which liens are duly recorded in the Clerk’s Office of the Circuit Court, Prince William County, Virginia.
2. On July 16, 2019, Debtor filed this Chapter 13 case (the “present case”).

3. On October 27, 2018, Debtor filed Chapter 13 case number 18-13649-BFK in this Court (the “October 2018 case”).
4. The October 2018 case was dismissed by Order entered on June 28, 2019.
5. On May 30, 2018, Debtor filed Chapter 13 case number 18-11927-BFK in this Court (the “May 2018 case”).
6. The May 2018 case was dismissed by Order entered on October 5, 2018.
7. These three cases were all filed after Debtor incurred debt owed to the Association.
8. The Association initiated a judicial foreclosure of the Property in the Circuit Court of Prince William County, case number CL18-2645, filed on March 16, 2018, prior to the filing of the initial May 2018 case (the “Foreclosure Suit”). The Foreclosure Suit has been “stayed” since the filing of the May 2018 case.
9. Debtor is clearly abusing the bankruptcy process by filing three bankruptcy cases within a single year. Debtor is not proceeding in good faith.
10. 11 U.S.C. § 362 (c)(4)(A)(i) states “if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case.”
11. Two cases of the Debtor were pending within the previous year before the present case was filed but were dismissed; therefore, the automatic stay did not go into effect upon the filing of the present case.

12. 11 U.S.C. § 362 (c)(4)(A)(ii) states “on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect.”

13. Pursuant to 11 U.S.C. § 362 (c)(4)(A)(ii), the Association, a party of interest, requests that this Court enter an Order confirming that no stay is in effect in the present case

WHEREFORE, the above premises considered, Lakeside Homeowners Association, Inc. hereby requests that the Court enter an Order Confirming No Stay In Effect Pursuant to 11 U.S.C. § 362 (c)(4)(A)(ii).

By: /s/ Brad M. Barna
Brad M. Barna
Virginia State Bar #88993
CHADWICK, WASHINGTON, MORIARTY,
ELMORE & BUNN, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Confirm No Stay in Effect Pursuant to 11 U.S.C. § 362 (c)(4)(A)(ii) was sent this 1st day of August 2019, via electronic notice to the following:

Thomas P. Gorman,
300 N. Washington Street, Ste. 400
Alexandria, VA 22314
Chapter 13 Trustee

Martin C. Conway, Esq.
12934 Harbor Drive, Suite 107
Woodbridge, Virginia 22192
Debtor's Attorney

And to all other parties registered to receive notice via CM/ECF.

By: /s/ Brad M. Barna
Brad M. Barna

**UNITED STATES BANKRUPTCY COURT
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Debtor.)	

**LAKESIDE HOMEOWNERS
ASSOCIATION, INC.**

Movant,

v.

CARL PINKERTON

Respondent.

NOTICE OF MOTION TO CONFIRM NO STAY IN EFFECT
PURSUANT TO 11 U.S.C. § 362 (c)(4)(A)(ii)
AND
NOTICE OF SCHEDULED HEARING

Creditor, Lakeside Homeowners Association, Inc. filed a Motion to Confirm No Stay In Effect Pursuant To 11 U.S.C. § 362 (c)(4)(A)(ii), filed in case 19-12330-KHK on August 1, 2019.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not wish the court to grant the relief sought in the motion, or if you want the court to consider your views on the objection, then on or prior to the hearing date, you or your attorney must:

File with the court, at the address shown below, a written response with supporting memorandum as required by Local Bankruptcy Rule 9013-1 (H). Unless a written response and supporting memorandum are filed and served by the date specified, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing. If you mail your response to the court

for filing, you must mail it early enough so the court will receive it on or before the date stated above. You must also mail a copy to the persons listed below.

Attend the hearing scheduled to be held on **August 15, 2019** at **9:30 AM** at Judge Kindred's Courtroom, **200 S. Washington St., Courtroom III, Alexandria, VA 22314**. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

A copy of any written response must be mailed to the following persons:

Lakeside Homeowners Association, Inc.
c/o Chadwick, Washington, Moriarty, Elmore & Bunn, P. C.
3201 Jermantown Road, Suite 600
Fairfax, VA 22030

With a copy to: Clerk of Court
United States Bankruptcy Court
200 South Washington Street
Alexandria, VA 22314

Thomas P. Gorman, Chapter 13 Trustee
300 N. Washington Street, Suite 400
Alexandria, VA 22314

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Motion to Confirm No Stay in Effect Pursuant to 11 U.S.C. § 362 (c)(4)(A)(ii) and Notice of Scheduled Hearing was sent this 1st day of August 2019, via electronic notice to the following:

Thomas P. Gorman,
300 N. Washington Street, Ste. 400
Alexandria, VA 22314
Chapter 13 Trustee

Martin C. Conway, Esq.
12934 Harbor Drive, Suite 107
Woodbridge, Virginia 22192
Debtor's Attorney

And to all other parties registered to receive notice via CM/ECF.

By: /s/ Brad M. Barna
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